

Aaron L. Agenbroad (State Bar No. 242613)
alagenbroad@jonesday.com

JONES DAY
555 California Street, 26th Floor
San Francisco, CA 94104
Telephone: (415) 626-3939
Facsimile: (415) 875-5700

Attorneys for WASHINGTON GROUP
INTERNATIONAL, INC., A DIVISION OF URS
CORPORATION

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

**IN RE: KATRINA CANAL BREACHES
CONSOLIDATED LITIGATION**

PERTAINS TO MR-GO

**(PENDING IN THE UNITED STATES
DISTRICT COURT FOR THE EASTERN
DISTRICT OF LOUISIANA AS CIVIL
ACTION NO. 05-4182 "K" (2) BEFORE
HON. STANWOOD R. DUVAL, JR.,**

**Case No. MISC. NO. 08-CV-
80007MISC (PJH)**

**SUPPLEMENTAL DECLARATION
OF SHANNON M. KASLEY IN
FURTHER SUPPORT OF
WASHINGTON GROUP
INTERNATIONAL, INC.'S
CROSS-MOTION TO COMPEL
COMPLIANCE WITH THE
SUBPOENA**

Date: March 5, 2008
Time: 10:00 a.m.
Courtroom: G, 15th Floor
Judge: Mag. Bernard Zimmerman

I, SHANNON M. KASLEY, declare:

1. I am Of Counsel with the law firm of Jones Day, located at 51 Louisiana Avenue, N.W., Washington, D.C. 20001, (202) 879-3710 (telephone), (202) 626-1700 (facsimile). I am a member in good standing of the bars of New York, New Jersey, and the District of Columbia, and the United States District Court, Eastern District of Louisiana has granted me leave to appear in this matter as a foreign attorney in the above-captioned matter. I submit this Supplemental Declaration in further support of WGII's Cross-Motion to Compel UC-Berkeley to Comply with WGII's November 19, 2007 Subpoena for the Production of Documents to the Independent Levee

1 Investigation Team (“ILIT”), led by the University of California at Berkeley (“UC-Berkeley”)
2 and funded in part by the University of California at Berkeley Center for Technology Research in
3 the Interest of Society (“CITRIS”) (“Subpoena” or “ILIT Subpoena”). I have personal
4 knowledge of the matters stated in this declaration. Jones Day represents Defendant Washington
5 Group International, Inc. (“WGII”) in the above-captioned matter. If called upon to do so, I could
6 and would testify to all matters set forth herein.

7 2. Attached as Exhibit A is a true and correct copy of WGII’s January 29, 2008
8 Federal Rule of Civil Procedure 45 Subpoena for the Production of Documents to Robert G. Bea,
9 which WGII caused to be served in connection with Barge category of cases currently pending in
10 the United States District Court for the Eastern District of Louisiana in the *In re Katrina Canal*
11 *Breaches Consolidated Litigation* matter (Civil Action No. 05-4182 E.D. La.) (“*In re Katrina*”).

12 3. Attached as Exhibit B is a true and correct copy of Lafarge North America, Inc.’s
13 December 4, 2007 Federal Rule of Civil Procedure 45 Subpoena Requiring the Production of
14 Documents to the Independent Levee Investigation Team (“ILIT”), led by the University of
15 California at Berkeley (“UC-Berkeley”) and funded in part by the University of California at
16 Berkeley Center for Technology Research in the Interest of Society (“CITRIS”), which Lafarge
17 caused to be served in connection with Barge category of cases currently pending in the United
18 States District Court for the Eastern District of Louisiana in *In re Katrina*.

19 4. Attached as Exhibit C is a true and correct copy of the Barge Plaintiffs’ January 28,
20 2008 Notice of FRCP 45 Production Request to the Independent Levee Investigation Team, UC
21 Berkeley, which the Barge Plaintiffs caused to be served in connection with Barge category of
22 cases currently pending in the United States District Court for the Eastern District of Louisiana in
23 *In re Katrina*.

24 5. Attached as Exhibit D is a true and correct copy of a printout of the website page
25 at http://risk.berkeley.edu/faculty_and_researches.html that identifies Robert Bea, as a Co-
26 Director of the Center for Catastrophic Risk Management.

EXHIBIT A

AO88 (Rev. 12/06) Subpoena in a Civil Case

Issued by the
UNITED STATES DISTRICT COURT

Northern

DISTRICT OF

California

In Re: KATRINA CANAL BREACHES
CONSOLIDATED LITIGATION
V.

SUBPOENA IN A CIVIL CASE

Pertains to: BARGE

Case Number:¹ 05-4182 "K" (2)

(pending in the United States
District Court for the Eastern
District of Louisiana before the
Hon. Stanwood R. Duval, Jr.)

TO: Robert G. Bea
212 McLaughlin Hall
University of California at Berkeley
Berkeley, CA 94720-1712

- ☐ YOU ARE COMMANDED to appear in the United States District court at the place, date, and time specified below to testify in the above case.

PLACE OF TESTIMONY

COURTROOM

DATE AND TIME

- ☐ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION

DATE AND TIME

- ☒ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):

See attached Schedule A.

PLACE

Jones Day
555 California Street, 26th Floor, San Francisco, CA 94104-1500

DATE AND TIME

2/29/2008 10:00 am

- ☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

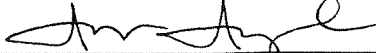
PREMISES

DATE AND TIME

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rules of Civil Procedure, 30(b)(6).

ISSUING OFFICER'S SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT)

DATE



1/29/08

ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER

Aaron L. Agenbroad, Jones Day, 555 California Street, 26th Floor, San Francisco, CA 94104-1500, (415-626-3939),
Counsel for Washington Group International, Inc.

(See Rule 45, Federal Rules of Civil Procedure, Subdivisions (c), (d), and (e), on next page)

¹ If action is pending in district other than district of issuance, state district under case number.

B 255 (11/91) (cont.)

PROOF OF SERVICE

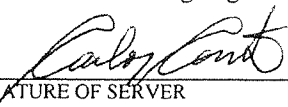
SERVED	DATE 01-30-08 AT 1:40PM	PLACE ROBERT G. BEA 212 MCLAUGHLIN HALL UNIVERSITY OF CALIFORNIA AT BERKELEY BERKELEY, CA 94720
SERVED ON (PRINT NAME) ROBERT G. BEA	MANNER OF SERVICE PERSONAL SERVICE	
SERVED BY (PRINT NAME) CARLOS CASTRO	TITLE PROCESS SERVER	

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on JANUARY 30, 2008
DATE

REF: 3011910
NATIONWIDE LEGAL, INC.
CARLOS CASTRO
REG. NUMBER: 417
SAN FRANCISCO COUNTY


SIGNATURE OF SERVER

1255 POST STREET, SUITE #500
ADDRESS OF SERVER

SAN FRANCISCO, CALIFORNIA 94109

Rule 45, Federal Rules of Civil Procedure, Parts C & D:
(C) PROTECTION OF PERSON SUBJECT TO SUBPOENAS.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take responsible steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction which may include, but is not limited to, lost earnings and and reasonable attorney's fees

(2) (A) A person commanded to produce and permit inspection and copying designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d) (2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect or copy materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of the party from significant expense resulting from the inspection and copying commanded.

(3) (A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

(i) fails to allow for reasonable time for compliance;

(ii) requires a person who is not a party or an officer of a party, to travel to a place more than 100 miles from the place where that person resides, is employed or regularly transacts business in

person, except that, subject to the provisions of clause (c) (B) (iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held, or (iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or

(iv) subjects a person to undue burden.

(B) if a subpoena

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or (ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or

(iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than 100 miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena, or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearances or production only upon specified conditions.

(d) DUTIES IN RESPONDING TO SUBPOENA

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When the information subject to a subpoena is withheld on a claim that is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

SCHEDULE A

This subpoena is to be answered in accordance with the provisions of Federal Rule of Civil Procedure 45(d)(1) and in accordance with the following definitions and instructions:

A. Definitions

The terms set forth below are defined as follows unless otherwise stated:

1. "Document(s)," "data," "report(s)," "information," and "material(s)" shall be used in the broadest sense contemplated by Federal Rule of Civil Procedure 34, and shall include any writing of any kind, including, without limitation, any written, printed, taped, electronically or digitally encoded, graphic or other information, including, without limitation, originals, identical copies, translations and drafts thereof and all copies bearing notations and marks not found on the original. "Document(s)," "data," "report(s)," "information," and "material(s)" includes, without limitation, affidavits; agreements; analyses; appointment books; articles from publications; workpapers of any kind; books; calendars; charts; checks (canceled or uncanceled); check stubs; communications; computer disks, print outs, tapes; confirmations; contracts; correspondence; credit card receipts; desk calendars; deskpads; diaries; diskettes; drafts; electronic mail; estimates; evaluations; facsimiles; files; filings; forms; graphs; invoices; journals; ledgers; letters; lists; maps; meeting minutes; memoranda; notations; notes; opinions; orders; pamphlets; papers; pictures; press releases; publications; receipts; recordings of conferences, conversations, or meetings; reports; statements; statistical records; studies; summaries; tabulations; telegrams; telephone records; telex messages; transcripts; understandings; videotapes; vouchers; and sheets or things similar to any of the foregoing however denominated.

"Document(s)," "data," "report(s)," "information," and "material(s)" further means any document now or at any time in the possession, custody or control of the entity to whom these

Requests are directed (together with any predecessors, successors, affiliates, subsidiaries or divisions thereof, and their officers, directors, employees, agents and attorneys). Without limiting the term "control" as used in the preceding sentence, a person is deemed to be in control of a document if the person has the right to secure the document or a copy thereof from another person having actual possession thereof.

2. "Concerning," "regarding," "relating to," and "demonstrating" means referring to, describing, discussing, evidencing, or constituting.

3. "ILIT" means the Independent Levee Investigation Team, led by the University of California at Berkeley and funded in part by the University of California at Berkeley's Center for Technology Research in the Interest of Society ("CITRIS"); any of ILIT's members, employees, affiliates, representatives, advisors, agents, attorneys or associates; or any other person acting on behalf of the ILIT in any capacity.

4. "You," or "Your" means Robert G. Bea, a professor in the UC Berkeley Department of Civil and Environmental Engineering and the co-author of the Report published by the Independent Levee Investigation Team ("ILIT"), led by the University of California at Berkeley and funded in part by the University of California at Berkeley Center for Technology Research in the Interest of Society ("CITRIS"), and any agents, designees, representatives or other persons acting on your behalf or at your request. The subpoena is directed to Prof. Bea as a member of ILIT and the co-author of the ILIT Report and seeks only those documents from him in his capacity as such, and is not directed to Prof. Bea, and therefore does not seek documents from him, as an expert retained by counsel as of March, 2007 in connection with the *In re Katrina Canal Breaches Consol. Litig.*

5. “Person” or “individual” means any natural person or any business, legal, or government entity or association.

6. “Meeting” means the contemporaneous presence of any natural persons, whether or not such presence occurred by chance or was prearranged and whether or not the meeting was formal or informal or occurred in connection with some other activity, and whether or not the meeting took place via telephonic, telegraphic video or in-person, or otherwise.

7. “Including” means including without limitation.

8. “Identify,” when used in reference to a person, means to state his, her, or its full name, present or last known address, and telephone number.

9. Unless otherwise set forth specifically in a request, the relevant time period applicable to this subpoena is August 29, 2005 through and including the date of your document production.

10. “Hurricane Katrina” means the hurricane that made landfall along the Mississippi Gulf Coast to the east of the New Orleans, Louisiana area on or about the morning of August 29, 2005.

11. “WGII” means Washington Group International, Inc., a division of URS Corporation.

12. “Canal” shall include the waterway itself, as well as any and all adjacent flood control structures and/or spoil banks, including levees and floodwalls.

13. “MRGO” means the Mississippi River Gulf Outlet Navigation Canal, as well as any and all adjacent flood control structures and/or spoil banks, including levees and floodwalls.

14. “GIWW” means the Gulf Intracoastal Waterway, as well as any and all adjacent flood control structures and/or spoil banks, including levees and floodwalls.

15. “Industrial Canal” means the Inner Harbor Navigation Canal, also referred to locally as the Industrial Canal, that connects Lake Pontchartrain, the Mississippi River, and the segment of the GIWW between New Orleans East and St. Bernard Parish.

16. “Breach(es)” means the failure, during and/or immediately after Hurricane Katrina, other than from overtopping, of a levee, berm, spoil bank, levee wall, and/or flood wall resulting in the release of floodwater.

17. “Adjacent to” means next to, along, near, or on/or near the boundary of property or a specific area.

18. “East Bank Industrial Area” (“EBIA”) means the 32-acre parcel of land in New Orleans bordered by Florida and Claiborne Avenues to the north and south along the eastern edge of the Industrial Canal and bounded on the east by the levee and/or floodwall.

B. Instructions

1. The documents sought in these Requests include all documents in your possession, custody or control. Unless otherwise indicated, these Requests seek all documents generated or received by you during the Relevant Period.

2. You shall produce all documents in the manner in which they are maintained in the usual course of your business and/or you shall organize and label the documents to correspond with the categories in these Requests. A Request for a document shall be deemed to include a request for any and all file folders in which the document was contained, transmittal sheets, cover letters, exhibits, enclosures, or attachments to the document in addition to the document itself.

3. Each document withheld from production based upon privilege or any similar claim shall be identified by: (a) the type of document; (b) the general subject matter of the

document; (c) the date of the document; and (d) such other information as is sufficient to identify the document, including, without limitation, the author of the document, the relationship of the author and any recipient to each other. The nature of each claim of privilege shall be set forth in sufficient detail to enable a determination to be made concerning the reasons for the privilege claim.

4. Documents attached to each other should not be separated.

5. Documents not otherwise responsive to these Requests shall be produced if such documents mention, discuss, refer to, or explain the documents that are called for by these Requests.

6. If any document within the scope of these Requests has been destroyed, that document shall be identified, including, without limitation, identification of its author(s), intended or unintended recipient(s), addressee(s), intended or unintended recipients of blind copies, date and subject matter. The circumstances of such destruction shall be set forth, and any documents relating to such destruction shall be produced.

7. In producing documents and other materials, you are requested to furnish all documents or things in your possession, custody or control, regardless of whether such documents or materials are possessed directly by you or your directors, officers, agents, employees, representatives, subsidiaries, managing agents, affiliates, accountants or investigators, or by your attorney or their agents, employees, representatives or investigations.

8. If you object to any part of any request, you shall state fully the nature of the objection. Notwithstanding any objections, you shall nonetheless comply fully with the other parts of the request not objected to.

9. Each Request shall be construed independently and not with reference to any other document Request for the purpose of limitation.
10. "All" and "each" shall be construed as "all and each."
11. The connectives "and" and "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery Request all responses that might otherwise be construed to be outside the scope.
12. The use of the singular form of any word includes the plural and vice versa. The past tense shall include the present tense and vice versa.
13. The documents shall be produced in full, without abbreviation or expurgation.

SPECIFICATIONS OF DOCUMENTS TO BE PRODUCED

As indicated above, the Specifications of Documents to be Produced are directed to Prof. Bea as a member of ILIT and the co-author of the ILIT Report and seeks only those documents from him in his capacity as such, and is not directed to Prof. Bea, and therefore does not seek documents from him, as an expert retained by counsel as of March, 2007 in connection with the *In re Katrina Canal Breaches Consol. Litig.*:

- 1) documents, including statements of eyewitnesses or other interviews provided to you or any other member of ILIT, reflecting instances in which residents of the Lower Ninth Ward in New Orleans, Louisiana or others encountered difficulty dewatering excavations in or adjacent to the EBIA
- 2) documents provided to you or any other member of ILIT reflecting reports of underseepage and/or ponding of water along or adjacent to the Industrial Canal at the west edge of the Lower Ninth Ward in New Orleans
- 3) documents, including statements or other interviews provided to you or any other member of ILIT, reflecting complaints or other expressions of concern by residents of the Lower Ninth Ward and St. Bernard Parish concerning underseepage and/or ponding of water along or adjacent to the Industrial Canal, including who made those complaints, when those complaints were made, and to whom those complaints were made

4) documents supporting the conclusion ILIT made in Chapter 11, page 11-5 of the ILIT July 31, 2006 Final Report that the "main breaches that were the principal source of flooding for both the St. Bernard/Lower Ninth Ward protected area and the New Orleans East protected area were the levee frontages facing 'Lake' Borgne (which is actually a bay, as it is connected directly to the Gulf of Mexico)"

5) documents provided to you or any other member of ILIT reflecting that WGII was made aware or warned of underseepage of water along or adjacent to the Industrial Canal, particularly in the EBIA

6) documents provided to you or any other member of ILIT reflecting that any other person (including, but not limited to any natural person or any business, legal, or government entity or association) was made aware or warned of underseepage of water along or adjacent to the Industrial Canal, particularly in the EBIA

7) documents requests or other requests for information from you or any other member of ILIT to McElwee Brothers, Inc. or any other individual in connection with your investigation of Hurricane Katrina and its effects in the Industrial Canal and your preparation of the ILIT July 31, 2006 Final Report, or any interim drafts thereof

8) documents provided to you or any other member of ILIT by McElwee Brothers, Inc. or any other individual in connection with your investigation of Hurricane Katrina and its effects in the Industrial Canal and your preparation of the ILIT July 31, 2006 Final Report, or any interim drafts thereof

9) communications between you or any other member of ILIT with McElwee Brothers, Inc., Melvin M.L. McElwee, Sr., Sylvia Hurst, and/or any person acting on behalf of McElwee Brothers, Inc.

10) documents reflecting instances of disagreement among any members of the ILIT regarding conclusions in the ILIT July 31, 2006 Final Report, or any interim drafts thereof

11) documents reflecting theories examined or investigated by you or any other member of ILIT surrounding the breaches of the levees and flood walls along or adjacent to the EBIA in the Industrial Canal at the west edge of the Lower Ninth Ward in New Orleans

12) documents reflecting theories examined or investigated by you or any other member of ILIT that a runaway barge, i.e. a barge that had broken free of its moorings, caused the breaches of the levees and flood walls along or adjacent to the EBIA in the Industrial Canal at the west edge of the Lower Ninth Ward in New Orleans

13) documents supporting the conclusion ILIT made in Chapter 6, page 6-7 of the ILIT July 31, 2006 Final Report that "the barge [ING4727] slipped its moorings and was eventually drawn in through a breach that was already well developed"

CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing Notice of Subpoena Requiring the Production of Documents and Schedule A has been served upon all counsel of record through the Court's CM/ECF electronic filing system or by placing same in the United States mail, postage prepaid and properly addressed, this 30th day of January, 2008.

/s/ Heather S. Lonian

Heather S. Lonian

EXHIBIT B

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

**IN RE: KATRINA CANAL BREACHES
CONSOLIDATED LITIGATION**

CIVIL ACTION

**NO. 05-4182
and consolidated cases**

PERTAINS TO: BARGE

SECTION "K" (2)

<i>Boutte v. Lafarge</i>	05-5531
<i>Mumford v. Ingram</i>	05-5724
<i>Lagarde v. Lafarge</i>	06-5342
<i>Perry v. Ingram</i>	06-6299
<i>Benoit v. Lafarge</i>	06-7516
<i>Parfait Family v. USA</i>	07-3500

**JUDGE
STANWOOD R. DUVAL, JR.

MAGISTRATE
JOSEPH C. WILKINSON, JR.**

**NOTICE OF SUBPOENA REQUIRING THE
PRODUCTION OF DOCUMENTS**

Pursuant to the Court's Case Management and Scheduling Order No.5, entered September 18, 2007 (Docket No. 7724), and as subsequently amended ("CMO No.5"), PLEASE TAKE NOTICE that pursuant to Rule 45 of the Federal Rules of Civil Procedure, Defendant Lafarge North America Inc. ("LNA") caused on November 30, 2007, a subpoena duces tecum ("subpoena") to be issued by the United States District Court for the Northern District of California upon the Independent Levee Investigation Team ("ILIT"), led by the University of California at Berkeley and funded in part by the University of California at Berkeley Center for Technology Research in the Interest of Society ("CITRIS"). The Subpoena has been directed to CITRIS, located at 281 Hearst Memorial Mining Building #1764, University of California, Berkeley, Berkeley, California 94720-1764.

The subpoena requires the production of documents as described and designated in the attached Schedule A, at 10:00 a.m., December 28, 2007, at the offices of Goodwin Procter LLP, Three Embarcadero Center, 24th Floor, San Francisco, California 94111.

Dated: December 4, 2007

Respectfully submitted,

Respectfully submitted,

Robert B. Fisher, Jr., T.A. (#5587)
Derek A. Walker (#13175)
Ivan M. Rodriguez (#22574)
Parker Harrison (#27538)
CHAFFE MCCALL, L.L.P.
2300 Energy Centre
1100 Poydras Street
New Orleans, LA 70163-2300
Telephone: (504) 585-7000
Facsimile: (504) 585-7075
Fisher@chaffe.com
Walker@chaffe.com
Harrison@chaffe.com

/s/ John D. Aldock

John D. Aldock
Richard M. Wyner
Mark S. Raffman
GOODWIN PROCTER LLP
901 New York Avenue, N.W.
Washington, DC 20001
Telephone: (202) 346-4240

Daniel A. Webb (#13294)
SUTTERFIELD & WEBB, LLC
Poydras Center
650 Poydras Street, Suite 2715
New Orleans, LA 70130
Telephone: (504) 598-2715

Attorneys for Lafarge North America Inc.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing Notice of Subpoena Requiring the Production of Documents, Subpoena and Schedule A has been served upon all counsel of record through the Court's CM/ECF electronic filing system or by placing same in the United States mail, postage prepaid and properly addressed, this December 4, 2007.

/s/ John D. Aldock

SA088 (Rev. 12/06) Subpoena in a Civil Case

Issued by the
UNITED STATES DISTRICT COURT

Northern

DISTRICT OF

California

In re: Katrina Canal Breaches Consolidated Litigation

SUBPOENA IN A CIVIL CASE

V.

Pertains to: BARGE

Case Number:¹ 05-4182 "K" (2) USDC EDLA

TO: Independent Levee Investigation Team, UC Berkeley
 Center for Technology Research in the Interest of Society
 281 Hearst Memorial Mining Building, UC Berkeley
 Berkeley, CA 94720-1764

☐ YOU ARE COMMANDED to appear in the United States District court at the place, date, and time specified below to testify in the above case.

PLACE OF TESTIMONY

COURTROOM

DATE AND TIME

☐ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION

DATE AND TIME

☒ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):
 See attached Schedule A.

PLACE

Goodwin Procter LLP
 Three Embarcadero Center, 24th Floor, San Francisco, California 94111

DATE AND TIME

12/28/2007 10:00 am

☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES

DATE AND TIME

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rules of Civil Procedure, 30(b)(6).

ISSUING OFFICER'S SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT)

DATE

11/30/2007

ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER

Robert Bader, Goodwin Procter LLP, Three Embarcadero Center, 24th Floor, San Francisco, California 94111
 (415) 733-6000 – Counsel for Lafarge North America Inc.

(See Rule 45, Federal Rules of Civil Procedure, Subdivisions (c), (d), and (e), on next page)

¹ If action is pending in district other than district of issuance, state district under case number.

Case 2:05-cv-04182-SRD-JCW Document 9341-2 Filed 12/04/2007 Page 2 of 4
ROBERT BADER

GOODWIN PROCTER LLP
3 Embarcadero Center, 24th Floor
San Francisco, CA 94111
Telephone: (415) 733-6000
Attorney for: LaFarge North America Inc.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

IN RE : KATRINA CANAL BREACHES CONSOLIDATED LITIGATION; PERTAINS TO: BARGE

Ref#: 226532 * **PROOF OF SERVICE** Case No.: 05-4182 "K" (2) USDC EDLA

At the time of service I was at least eighteen years of age and not a party to this action and I served copies of the:

SUBPOENA IN A CIVIL CASE; SCHEDULE A

in the within action by personally delivering true copies thereof to the person named below, as follows:

Witness : INDEPENDENT LEVEE INVESTIGATION TEAM, UC BERKELEY

By serving : Leslie Fales, Authorized Agent

Address : Center for Technology Research of Society
281 Hearst Memorial Mining Bldg.
Berkeley, CA 94720

Date of Service: November 30, 2007

Time of Service: 1:30 PM

Witness fees : Were not demanded or paid

Person who served papers:


JENNIFER MARTINEZ
SPECIALIZED LEGAL SERVICES, INC.
1112 Bryant Street, Suite 200
San Francisco, CA 94103
Telephone: (415) 357-0500

Fee for service: \$105.50
Registered California process server.
(i) Employee or Independent Contractor
(ii) Registration no.: 945
(iii) County: San Francisco

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: November 30, 2007

Signature



SCHEDULE A

This subpoena is to be answered in accordance with the provisions of Federal Rule of Civil Procedure 45(d)(1) and in accordance with the following definitions and instructions:

LNA adopts the definitions and instructions in the subpoena served by Washington Group International, Inc. ("WGIP") on the Independent Levee Investigation Team ("ILIT") on November 19, 2007.

SPECIFICATIONS OF DOCUMENTS TO BE PRODUCED

1) documents, including statements of eyewitnesses or other interviews provided to ILIT, reflecting instances in which residents of the Lower Ninth Ward in New Orleans, Louisiana or others encountered difficulty dewatering excavations in or near the EBIA

2) documents reflecting reports of underseepage and/or ponding of water along the Industrial Canal at the west edge of the Lower Ninth Ward in New Orleans

3) documents, including statements or other interviews provided to ILIT, reflecting complaints or other expressions of concern by residents of the Lower Ninth Ward and St. Bernard Parish concerning underseepage and/or ponding of water along the Industrial Canal, including who made those complaints, when those complaints were made, and to whom those complaints were made

4) documents supporting the conclusion you made in Chapter 11, page 11-5 of your July 31, 2006 Final Report that the "main breaches that were the principal source of flooding for both the 81. St. Bernard/Lower Ninth Ward protected area and the New Orleans East protected area were the levee frontages facing 'Lake' Borgne (which is actually a bay, as it is connected directly to the Gulf of Mexico)"

5) documents reflecting that WGII was made aware or warned of underseepage of water along the Industrial Canal, particularly in the EBIA

6) documents reflecting that any other person (including, but not limited to any natural person or any business, legal, or government entity or association) was made aware or warned of underseepage of water along the Industrial Canal, particularly in the EBIA

7) documents requests or other requests for information from ILIT to McElwee Brothers, Inc. or any other individual in connection with your investigation of Hurricane Katrina and its effects in the Industrial Canal and your preparation of your July 31, 2006 Final Report, or any interim drafts thereof

8) documents provided to ILIT by McElwee Brothers, Inc. or any other individual in connection with your investigation of Hurricane Katrina and its effects in the Industrial Canal and your preparation of your July 31, 2006 Final Report, or any interim drafts thereof

9) documents reflecting instances of disagreement among any members of the ILIT regarding conclusions in your July 31, 2006 Final Report, or any interim drafts thereof

10) documents reflecting theories examined or investigated by ILIT surrounding the breaches of the levees and flood walls along the EBIA in the Industrial Canal at the west edge of the Lower Ninth Ward in New Orleans

11) documents relating to the conclusion that the barge ING 4727 did not cause any of the breaches in the Inner Harbor Navigational Canal

12) documents relating to the conclusion that factors other than the barge ING 4727 caused the breaches in the Inner Harbor Navigational Canal

13) documents relating to individuals who were present in the Lower Ninth Ward during Hurricane Katrina

EXHIBIT C

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

**IN RE: KATRINA CANAL BREACHES
CONSOLIDATED LITIGATION**

PERTAINS TO: BARGE

<i>Boutte v. Lafarge</i>	05-5531
<i>Mumford v. Ingram</i>	05-5724
<i>Lagarde v. Lafarge</i>	06-5342
<i>Perry v. Ingram</i>	06-6299
<i>Benoit v. Lafarge</i>	06-7516
<i>Parfait Family v. USA</i>	07-3500
<i>Lafarge v. USA</i>	07-5178

CIVIL ACTION

**NO. 05-4182
and consolidated cases**

SECTION "K" (2)

JUDGE

STANWOOD R. DUVAL, JR.

MAG.

JOSEPH C. WILKINSON, JR.

NOTICE OF FRCP 45 PRODUCTION REQUEST

TO: All Counsel

YOU ARE HEREBY NOTIFIED of the FRCP 45 Production Request of the following named organization, to produce under oath, before a court reporter or other person authorized to administer oaths, at the place, date and time stated below, to continue from day to day until concluded, the documents and things specified below.

You are invited to attend and participate as is appropriate according to law.

RESPONDENT:

**Independent Levee Investigation Team
UC Berkeley
Leslie Fales, Authorized Agent
Center for Technology Research of Society
281 Hearst Memorial Mining Bldg.
Berkley, California**

LOCATION:

If By Mail:

**Law Office of Brian A. Gilbert
821 Baronne Street
New Orleans, Louisiana 70113**

Or

If Local:

**Mary Alexander & Associates
44 Montgomery Street, Suite 1303
San Francisco, CA 94104**

DATE/TIME:

February 29, 2008 1:30 p.m.

Please appear and produce at the Law Office of Brian A. Gilbert, 821 Baronne Street, at 1:30 p.m. on February 29, 2008, any and all of the following:

- 1) Produce the report the University of California at Berkeley led Independent Levee Investigation Team (ILIT) known as "Investigation of the Performance of the New Orleans Flood Protection Systems in Hurricane Katrina on August 29, 2005". Provide complete copies of draft reports, preliminary reports and final report, for both Volume I (Main Text and Executive Summary) and Volume II (Appendices);
- 2) Regarding said Volume I of said report, also provide any and all reference material, backup material, data, reports, exhibit material, data, calculations, studies, test results, photographs, diagrams, radar illustrations, imaging, models, simulations, calculations, e-mails, etc referenced or relied on by said report including but not limited to all materials referenced by Volume II, Appendices, including Appendix A "Terrestrial LIDAR Imagery of New Orleans Levees Affected by Hurricane Katrina", Appendix B, "Boring Logs", Appendix C, "CPT LOGS", Appendix D "STE Laboratory Testing", Appendix E, "U.C. Berkeley Laboratory Testing and ILIT In-Situ Field Vane Shearing Testing", Appendix F: Looking Back, Appendix G: Looking Forward; Appendix H: "How Safe is Safe?" and Appendix I "Erosion Test Results on New Orleans Levee Samples."
- 3) Specifically with reference to the Inner Harbor Navigation Canal, to the extent not already provided in response to either demand 1 or 2 above, (whether such material was included in or relied upon for the said report), provide any and all reference material, backup material, data, reports, exhibit material, studies, test results, photographs, diagrams, radar illustrations, models, simulations, calculations, e-mails, etc., that pertain to the two breaches that occurred to the east bank flood wall or levee adjacent to the 9th Ward Neighborhood including but not limited to any and all documents concerning ING 4727 and what role if any it possibly had.

- 4) Any and all documents, things, accounts, texts, studies, statements, assumptions, data, calculations and other writings, things, facts and opinions you received, obtained, reviewed, relied upon and/or generated in connection with any and all of the above referenced.
- 5) Affidavit of authenticity of all of above.

Respectfully Submitted
BARGE P.S.L.C.

LAW OFFICE OF BRIAN A. GILBERT

/s/ Brian A. Gilbert
BRIAN A. GILBERT (#21297)
821 Baronne Street
New Orleans, Louisiana 70113
Telephone: (504) 885-7700
Attorney for Plaintiffs

WIEDEMANN & WIEDEMANN

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Fax: 504/835-2401
Attorney for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing document has been served upon counsel of record, by United States Mail, postage prepaid and properly addressed, facsimile, and/or ECF upload, this 28th day of January, 2008.

\\s\\Brian A. Gilbert

EXHIBIT D

Center for Catastrophic Risk Management



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UC Berkeley CCRM Student Firefighters, Los Padres National Forest Wildfire

San Diego, California, 2007

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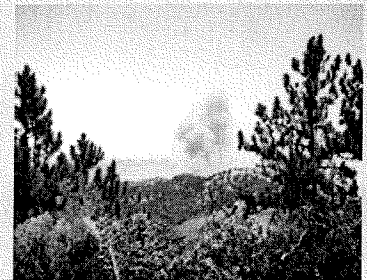
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Buellton, California, 2007



Los Padres National Forest Wildfire

San Diego, California, 2007

Center for Catastrophic Risk Management



Southern California Wildfires

San Diego, California, 2007



Southern California Wildfires

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Southern California Wildfires

San Diego, California, 2007



Southern California Wildfires

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Institute for Business and Economic Research, F502, Haas, Berkeley, CA 94720-1922. (510) 642-1922

EXHIBIT E

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Last Updated: June 25, 2007 - 11:05am

EXHIBIT F

----- Original Message -----

From: "Christopher Patti" [Christopher.Patti@ucop.edu]

Sent: 02/26/2008 11:51 AM PST

To: Shannon Kasley

Cc: Scott Joanen" <scott@jbrunolaw.com>

Subject: In Re Katrina Canal Breaches Litigation--WGI subpoenas to UC Berkeley faculty

Shannon,

Last Friday, Professors Seed, Bray, Riemer and Pestana produced documents in relating to their ILIT work to Lefarge North America, Inc. The production included both hard copy documents (which were digitally scanned) and electronic files. Counsel for LNA is sending me a set of CDs containing the document scans and electronic files, and I should have them tomorrow or Thursday. Please let me know how you would like to arrange for copying of this material in response to Washington Group International, Inc's subpoenas to Professors Seed, Bray, Riemer and Pestana. We could make space available at my offices in Oakland if you want to send someone to make copies. Alternatively, you may wish to make arrangements to obtain copies directly from LNA's counsel.

I would also like to know your intentions with respect to the March 12 hearing on your Cross-Motion to Compel production of documents from the UC Berkeley Center for Information Technology Research in the Interest of Society. As I indicated to you on January 22, CITRIS is not in possession, custody, or control of documents responsive to the subpoena. The individuals you have more recently served with subpoenas are either making production of their responsive documents (Professors Seed, Bray, Riemer and Pestana) or have moved to quash (Professor Bea). In these circumstances, proceeding with your Cross-Motion against CITRIS would be a waste of the parties' and the Court's time, which you have a responsibility to avoid.

Regards,

Christopher M. Patti
University Counsel
1111 Franklin St., 8th Fl.
Oakland, CA 94607
Tel: (510) 987-9800
Fax: (510) 987-9757